

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for	)	WC Docket No. 07-135
Local Exchange Carriers	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

**REPLY COMMENTS OF THE  
NATIVE TELECOM COALITION FOR BROADBAND**

The Native Telecom Coalition for Broadband<sup>1</sup> (“NTCB”) files its Reply Comments in this proceeding in response particularly to comments filed on or before April 18, 2011 by the National Tribal Telecommunications Association, the Regulatory Commission of Alaska, the Alaska Telecommunications Association, and the Alaska Communications System pursuant to the Public Notice issued by the Commission on February 9, 2011 (FCC 11-13). In the Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking at paragraph 211, the Commission invites comments on whether there should be an exception from a cap on the total

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<sup>1</sup> The NTCB is composed of the entities listed on Appendix A. Each of these entities represents entities interested in improving the availability, quality and adoption rates of voice, mobile, broadband and Internet Access services on Tribal lands, Alaska Native Regions or the Hawaiian Home Lands.

annual support per line for carriers serving Tribal lands in addition to carriers operating outside the continental United States.

The Comments of NTCB stated that there are unique circumstances justifying not just an exception from the cap, but demanding a more complete resolution of universal service funding for Native Americans. Geographic isolation on Tribal lands and related income disparity are real barriers prohibiting Native Americans from experiencing quality of life enhancements and economic opportunities that have become available to most Americans through advanced communications technology. The consequent outcome of low penetration levels for voice and broadband services on Tribal lands deserves the immediate attention of this Commission.

#### **I. SIGNIFICANT INDUSTRY AGREEMENT WITH THE COMMISSION THAT SPECIAL CONSIDERATION SHOULD BE GIVEN NATIVE AMERICANS**

One of the many challenges before this Commission is prioritization of its goals as it plans to implement a National Broadband Plan. Although there are many worthy initiatives on the table, the long standing communications disadvantages working against the socio-economic advancement of Native Americans should be eliminated now. The nation is now at a new crossroads brought about by the onset of broadband communications. This new technology offers to erase some of the critical quality-of-life challenges for rural Americans, and particularly Native Americans, that are exacerbated by remote location and small population.

As a reminder, the national rural trade associations and 38 other regional and state associations (the “Associations”<sup>2</sup>) filed comments with this Commission on July 12, 2010 specific to the extreme plight of Native Americans that are geographically isolated on Tribal lands. The Associations “. . . agree the Commission should give special consideration to

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<sup>2</sup> Comments of NECA, NTCA, OPASTCO, WTA, the Rural Alliance, et al., WC Doc. No. 10-90, GN Doc. 09-51, WC Doc. No. 05-337 at 8, n.19.

improving broadband deployment and adoption levels in Tribal lands, including areas such as the Hawaiian Homelands. Tribal lands are typically located in geographically-isolated areas, where small pockets of Native American groups are served. The costs associated with delivering broadband services to these consumers are very high even when compared to other rural areas.” Clearly among industry groups interested in the quality and ubiquity of broadband service in hard-to-reach, high-cost rural areas, the special circumstances and needs of Native Americans are recognized.

## **II. A DIVERSE GROUP OF ALASKAN ENTITIES RECOGNIZE THE SPECIAL NEEDS OF ALASKA’S “TRIBAL LANDS”**

If the existing universal service programs were not in place, it is unlikely that any Native American communities on Tribal lands would have the quality of communications service they have today. The Regulatory Commission of Alaska (RCA) states, “Many of the FCC’s proposals would have serious consequences for both existing voice services and deployment of broadband capable networks in Alaska. In general, the proposed transition to the CAF will not adequately support Alaska’s high cost service areas. We therefore support establishing alternative rules and funding mechanisms to accommodate areas having unique challenges to deployment of broadband services such as those existing throughout Alaska, an area historically viewed by the FCC as Tribal Lands.”<sup>3</sup>

A similar view is echoed by Alaska’s largest Incumbent Local Exchange Carrier, Alaska Communications Systems Group, Inc. (ACS). They state, “Existing levels of support for legacy networks should be continued on Tribal Lands, and additional resources should be made available to hasten the deployment of broadband to these historically underserved areas.”<sup>4</sup> To

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<sup>3</sup> RCA Comments at pg. 3

<sup>4</sup> ACS Comments at pg. 13

emphasize their general concern with the FCC's proposals, ACS continues, "Although the Commission proposes a multi-year transition period for certain aspects of USF and ICC, the proposal to adopt totally new mechanisms such as the CAF through untested methods . . . create enormous uncertainty about future revenue streams and the wisdom of continued investment in public telecommunications and broadband networks . . . ACS believes that the FCC's USF/ICC reforms as proposed would fail to provide sufficient incentives for most Alaska providers to continue to invest in broadband networks in rural Alaska."<sup>5</sup>

And to round out the Alaska perspective on USF reform the Alaska Telecommunications Association (ATA) states, "The NBP and the attendant Commission activities proposing to transition USF policies to CAF policies has chilled the money market for rural telephone companies whose networks depend on receiving high-cost support. Understandably, lenders are concerned that companies whose revenue streams have been heavily dependent on access revenues and USF support will be unable to repay current loans as the rules "transition." The various NPRMs have made little clear except that there will be change and that is hardly a basis for enhancing a lending institution's comfort level."<sup>6</sup> ATA continues, "We believe the Commission has indicated an appreciation if not an understanding of the magnitude of the exceptional conditions the Alaska communications industry faces. That belief is due to the suggested exception for carriers operating outside the continental United States to the proposed cost-per-loop cap . . . By itself, exemption from a proposed per line support cap would not assure Alaska companies of the resources to continue infrastructure development or even to maintain operations considering some of the other proposals in the NPRM, however we embrace this as a sign of the Commission's awareness that Alaska is different and, like Hawaii in its insular status,

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<sup>5</sup> ACS Comments at pgs. 8, 9.

<sup>6</sup> ATA Comments at pgs. 5, 6.

special consideration is warranted. After evaluating the success in the contiguous states of whatever transition changes are implemented, the Commission would have a better basis for considering how the new policies, or modifications of those policies, would fare in the unique and more fragile communications environment in Alaska.”<sup>7</sup>

The message given through these Alaska stakeholders is that an exemption from the CAF transition would be prudent, while Universal Service programs are maintained at existing levels to benefit Native American communities. Existing USF must become fixed in place – that is, the regulatory uncertainty that is prevalent in the current environment must be replaced with long-term federal regulatory policy that is needed to attract capital for continued deployment of broadband infrastructure.

### **III. THE NATIONAL TRIBAL TELECOMMUNICATIONS ASSOCIATION (NTTA) SUPPORTS A FORWARD-LOOKING SAFETY-NET MECHANISM**

The NTTA Comments express the concern that much remains to be done to achieve communications parity (both voice and broadband services) among Native and non-Native communities. In recognition of this disparity, NTTA states, “Given the historic under-service in tribal areas, the Commission must accommodate the build-out costs in Tribal and Native areas by exempting Native lands from a cap on federal support.”<sup>8</sup> NTTA asserts that due to a lack of infrastructure (lack of multiple communications technologies), native communities have minimal service choices available to them. This travesty should be corrected by this Commission taking quick and focused action to facilitate Native Americans penetration and adoption rates catching up with the rest of the nation. This will require the Commission to fashion a universal service program unique to the needs of Native American communities that adequately recognizes and

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<sup>7</sup> ATA Comments at pgs. 9, 10.

<sup>8</sup> NTTA Comments at pg. 23.

addresses Native challenges, and enables deployment of broadband infrastructure on Tribal lands.

Returning to the thoughts of Senator Inouye, a “one size fits all” approach for universal service reform as outlined in the National Broadband Plan is not workable for the disadvantaged group comprising Native Americans, i.e. American Indians, Alaska Natives, and Native Hawaiians. So, continuing proven USF mechanisms is appropriate for Native Americans and requires an exemption from the transition to the Connect America Fund. “NTTA is hopeful that the Commission will be pre-disposed to exempting Tribal and Native communities from the drastic overhaul of the high-cost model and Rate of Return status to buttress the high cost of network expansion and to ensure investors be able to predict and rely on infrastructure investments in Native markets.”<sup>9</sup>

NTTA amplifies the success achieved by the current embedded cost, rate of return USF model for rural Americans as follows: “Many of the large-scale [FCC] regulatory proposals are based on incorrect policy assumptions. Foremost is the assumption the existing high-cost support mechanism has been Inefficient. Yet as Rate of Return carriers have entered into isolated rural areas without existing networks and market competition, independent carriers have grown the Public Service Telecommunications Network and increased broadband deployment while meeting all the carrier of last resort responsibilities to rural customers. Cost support based on actual network and service investment has proven an efficient model for evolving networks in market vacuum areas. Financing for these efforts requires a financing method that reflects real costs and a long-term, stable and predictable method of recoveries to sustain broadband

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<sup>9</sup> NTTA at pg. 22.

expansion. A mechanism predicated on cost realities, financial certainty and long-term investment recovery is essential to financing broadband deployment in rural areas.”<sup>10</sup>

In the above comments, NTTA highlights the need for both sufficient and predictable support, which the current USF programs for rural Local Exchange Carriers have historically been able to provide. “NTTA is concerned ending the high-cost support model funding mechanism will put these tribal telcos out of business and thus reverse the network and access gains attained by the tribal telcos, at a time when their communities’ needs have not been fully met.”<sup>11</sup>

To further promote achieving predictable and sufficient USF, NTCB advocates for a specific USF “safety-net” feature, a Native Broadband Fund, to ensure continued earnings and access to capital, whether the broadband providers serving Tribal lands, including Hawaiian Homelands, are subject to a CAF transition or made exempt. NTTA’s concurrence in this fundamental concept is stated as follows: “NTTA, however, does propose a forward looking Native Safety-Net mechanism to promote future Tribal broadband service efforts by supporting differentials between Tribal broadband service costs and COLR revenues. NTTA looks forward to working with the FCC to refine this model.”

#### **IV. A NEW UNIVERSAL SERVICE PROGRAM – “NATIVE AMERICANS”**

The Commission should adopt a separate USF program entitled, “Native Americans.” This program would be added to the existing universal service programs included in the Commission rules that support rural Local Exchange Carriers, including the High Cost Loop Fund, Local Switching Support, and Interstate Common Line Support. USAC would administer

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<sup>10</sup> NTTA at pg. 4.

<sup>11</sup> NTTA at pg. 20.

this new program and it would be funded by the USF contribution mechanism. Support funds would be distributed to existing and future Eligible Telecommunications Carriers (ETCs) that serve Native Americans on Tribal lands. In addition to these support funds, an explicit “safety-net” payment from a Native Broadband Fund would be paid-out to ensure that “sufficient” USF funds (net gap approach) are provided to each ETC, meeting the cash flow and net income requirements of lenders. Only after such regulatory certainty is achieved through new Commission policy and rules specific to Native Americans will capital be made available for much needed infrastructure deployment on Tribal lands, including the Hawaiian Home Lands.

## **V. CONCLUSION**

This Commission and our industry recognize that the promise of broadband communications is critical to the survival of the nation. Certainly the criticality for Native American groups that are now struggling to obtain quality of life and economic opportunity equivalent to non-Native communities is much greater, and possibly, much more final. Over the past “hundred years” the rhetoric has bubbled forth, but little has been done to bring broadband infrastructure and communications parity to Native Americans. The time to deliver on trust responsibilities in this critical area of communications is now.

The Commission should undertake corrective action and create a new universal service program for Native Americans, that is, a separate Native Broadband Fund within the Universal Service Fund for the dual purposes of 1) ensuring extension of broadband networks/connectivity to Tribal lands – Indian Country, Alaska Native Regions, and Hawaiian Home Lands, and 2) sustaining the continued efforts of carriers that deliver voice and emerging/evolving broadband services to these native groups, i.e. American Indians, Alaska Natives, and Native Hawaiians.



Respectfully submitted,

Native Telecom Coalition for Broadband

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## **Appendix A**

### **NATIVE TELECOM COALITION FOR BROADBAND**

#### **May 23, 2011 Reply Comments in WC Doc. No. 10-90 et al.**

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Sacred Wind Communications, Inc.

Brian Cladoosby  
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General Manager  
Fort Mojave Telecommunications, Inc.

Paul Kelly  
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Steve Merriam  
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Arctic Slope Telephone Association Cooperative, Inc.

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CEO/General Manager  
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Brenda Shepard  
CEO  
TelAlaska, Inc.

Nathan Small  
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